

REMARKS

This is in response to the Final Office Action mailed on December 5, 2008. Claims 1 and 4 are currently amended, and claims 3 and 5 are canceled above without prejudice or disclaimer. New claims 9-13 are added. All amendments are fully supported by the original specification and drawings. No new matter is added. Claims 1, 4, and 9-13 are now pending in this application. In light of the foregoing amendments and following remarks, Applicant respectfully requests advancement of this application to allowance.

Claim Rejections – 35 U.S.C. § 103

In the subject Action, claims 1 and 3-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Koestner (U.S. Patent No. 5,139,020) in view of Devereux et al. (article entitled: "Relations of Doppler Stroke Volume and its Components to Left Ventricular Stroke Volume in Normotensive and Hypertensive American Indians"). Applicant respectfully traverses the rejection. However, in an effort to advance this application to allowance, claims 1 and 4 are amended. Support for the amendments to claim 1 is found in the original specification and drawings, such as at page 5, lines 12-21 and FIG. 6. Claims 3 and 5 are canceled without prejudice or disclaimer.

Claim 1 is directed to a method of tuning a cardiac prosthetic pacing device. The method includes: "(b) constructing a table of correspondence between activity type and flow rate and storing said table on said cardiac prosthetic pacing device; and (c) using said table, adjusting the timing of pacing events"

Koestner fails to disclose constructing a table of correspondence between activity type and flow rate, and using the table to adjust the timing of pacing events, as recited in claim 1. In contrast, Koestner describes adjusting the heart rate with a pacemaker based on measurements of stroke volume. This is disadvantageous because it requires ongoing Doppler insonation to determine changes in stroke volume. Furthermore, it increases power requirements and accordingly the physical size of the pacing device.

Devereux also fails to disclose constructing a table of correspondence between activity type and flow rate, and using the table to adjust the timing of pacing events, as recited in claim 1.

Accordingly, it would not have been obvious to modify Koestner and/or Devereux to arrive at the invention recited in claim 1. Applicant respectfully requests reconsideration and allowance of claim 1. Claim 4 depends from claim 1 and so is also believed to be in condition for allowance. Applicant does not otherwise concede the correctness of the rejection.

New Claims

New claims 9-13 are added that ultimately depend from claim 1. Applicant respectfully requests consideration and allowance of claims 9-13 for at least the same reasons as claim 1, discussed above.

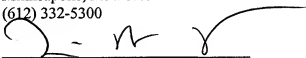
CONCLUSION

In view of the above Amendment and Response, Applicant respectfully requests a Notice of Allowance. There may be additional reasons that the pending subject matter is patentably distinct from the cited references in addition to those discussed herein. Applicant reserves the right to raise any such arguments in the future. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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